

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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VIRGINIA SMEDBRON,

Plaintiff,

vs.

Case No.: 19-cv-390

ANDREW SAUL,  
Commissioner of Social Security,

Defendant.

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ORDER ON STIPULATION FOR ATTORNEY'S FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE ACT 28 U.S.C. §2412(d)

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Dana Duncan, counsel for plaintiff, moves for a fee award under 42 U.S.C. § 406(b). Dkt. [23]. The commissioner doesn't oppose the request. The statute allows a prevailing party to recover a reasonable fee, but the total amount awarded at both the district court and the administrative level may not exceed 25 percent of the past benefits awarded. See *Gisbrecht v. Barnhart*, 535 U.S. 789, 792 (2002). In this case 25 percent is \$8,938.50. Dkt. [23]-2. Counsel previously received \$4,190.14 under the Equal Access to Justice Act, and he says that he is seeking \$2,288.50 from the agency, so he is requesting \$2,359.86 from this court, for a total award of \$8,838.50, which is slightly less than 25 percent. Counsel devoted 13.30 hours of attorney time and 16.65 hours of paralegal time to proceedings in this court. Dkt. [23]-3. Even if paralegal time is excluded, counsel's effective rate is less than \$500 an hour. The court concludes that the requested fee is reasonable in light of "the character of the representation and the results the representative achieved." *Gisbrecht*, 535 U.S. at 808. So Duncan's motion, Dkt. [23], is GRANTED. The court APPROVES a representative fee of \$2,359.86.

Date this 10<sup>th</sup> day of June, 2021.

/s/ James D. Peterson  
District Judge